

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NOS. 2:06-CR-169-WKW
	)	[WO]
CLIFF JOHNSON	)	

**ORDER**

It is ORDERED:

(1) The court’s April 4, 2019 order (Doc. # 882) is VACATED. Defendant is not required to exhaust his administrative remedies through BOP before bringing a motion to reduce his sentence under the retroactive application of the Fair Sentencing Act. *See* First Step Act of 2018, Pub. L. No. 115-391, § 404, 132 Stat. 5194, 5222 (2018) (providing that “a court that imposed a sentence” that was retroactively reduced under the Act has authority to “impose a reduced sentence”); 18 U.S.C. § 3582(c)(1)(B) (providing that “in any case” the court may modify a sentence of imprisonment “to the extent otherwise expressly permitted by statute”); *see also United States v. Potts*, No. 2:98-cv-14010-ROSENBERG, 2019 WL 1059837, at \*3 (S.D. Fla. Mar. 6, 2019) (concluding that § 3582(c)(1)(B) governs a motion for reduced sentence under the retroactive application of the Fair Sentencing Act).

(2) The government shall respond to Defendant’s motion for emergency

release, his reply in support of that motion, and motion to alter or amend judgment (Docs. # 878, 883, 884) **on or before May 7, 2019**. Defendant's argument regarding the retroactive application of the Fair Sentencing Act is properly before the court because this court sentenced Defendant. *See* First Step Act of 2018, Pub. L. No. 115-391, § 404, 132 Stat. 5194, 5222 (2018) (providing that "a court that imposed a sentence" that was retroactively reduced under the Act has authority to "impose a reduced sentence"). Therefore, the government shall respond to the merits of Defendant's claim that his sentence may be reduced by the retroactive application of the Fair Sentencing Act.

DONE this 1st day of May, 2019.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE